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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/032,395	12/21/2001	Mark R. Hansen	P-TB 5067	5417
23601	7590	01/29/2004	EXAMINER	
CAMPBELL & FLORES LLP 4370 LA JOLLA VILLAGE DRIVE 7TH FLOOR SAN DIEGO, CA 92122			MARTINELL, JAMES	
			ART UNIT	PAPER NUMBER
			1631	

DATE MAILED: 01/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/032,395	Applicant(s) HANSEN ET AL.	
	Examiner James Martinell	Art Unit 1631	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-87 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13-87 is/are allowed.
- 6) ☒ Claim(s) 1,4,6,11 and 12 is/are rejected.
- 7) ☒ Claim(s) 2, 3, 5, and 7-10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: |

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The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 4, 6, 11, and 12 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by any one of Corpet et al (Nucleic Acids Res. 28(1), 267 (2000)), Henikoff et al (Nucleic Acids Res. 28(1) 228 (2000)), or Murzin et al (J. Mol. Biol. 247: 536 (1995)). This rejection is repeated for reasons already of record (e.g., Office action mailed May 27, 2003, page 3). Applicants' arguments (response filed September 29, 2003, pages 27-28) are not persuasive because although the terms used in the prior are not the same as those used in the claims, the methods are. Since each of the references cited as prior art classifies various sequences into families, each reference necessarily meets the limitation of separating polypeptides into two or more subsets. Likewise, since each of the references in the prior art classifies the sequences based on sequence information, each of the references necessarily uses a sequence comparison signature even though the term is not used *per se* in the prior art.

Claims 1, 4, 6, 11, and 12 are rejected under 35 U.S.C. 102(a) as being clearly anticipated by either one of Apweiler et al (Nucleic Acids Res. 29(1), 44 (2001)) or Bejerano et al (Bioinformatics 17(10), 927 (2001)). This rejection is repeated for reasons already of record (e.g., Office action mailed May 27, 2003, page 3). Applicants' arguments (response filed September 29, 2003, page 28) are not persuasive because although the terms used in the prior are not the same as those used in the claims, the methods are. Since each of the references cited as prior art classifies various sequences into families, each reference necessarily meets the limitation of separating polypeptides into two or more subsets. Likewise, since each of the references in the prior art classifies the sequences based on sequence information, each of the references necessarily uses a sequence comparison signature even though the term is not used *per se* in the prior art.

Claims 2, 3, 5, and 7-10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 13-87 are allowable over the prior art of record.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Martinell whose telephone number is (571) 272-0719. The fax phone number for Examiner Martinell's desktop workstation is (571) 273-0719. The examiner works a flexible schedule and can be reached by phone and voice mail. Alternatively, a request for a return telephone call may be e-mailed to james.martinell@uspto.gov. Since e-mail communications may not be secure, it is suggested that information in such requests be limited to name, phone number, and the best time to return the call.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Woodward, can be reached on (571) 272-0722.

PLEASE NOTE THE NEW FAX NUMBER

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.


James Martinell, Ph.D.
Primary Examiner
Art Unit 1631